

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 539 of 1980

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

D M JHALA

Versus

STATE OF GUJARAT

Appearance:

MR YS MANKAD for Petitioner

MR HL JANI for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 03/03/97

ORAL JUDGMENT

Heard learned counsel for the parties.

2. The petitioner filed this Special Civil Application and prayed for directions to the respondents No.1 and 2 to correct his seniority as well as to give him deemed date of promotion from 6.2.71 instead of 4.10.75, in the category of Head Wireless Operator. Under the order dated 4.10.75, the petitioner and

respondent No.3 were promoted on the said post but later on the order of promotion of respondent No.3 was modified and he has been given promotion from 6.2.71. The petitioner, undisputedly was senior to Shri M.C.Shah, respondent No.3 in the category of Wireless Operator. Shri M.C. Shah filed Special Civil Application before this Court and claim has been made by him against the promotions which have been given and challenge has been made on the ground that these promotions makes hostile discrimination between Ex Bombay and Ex Saurashtra Wireless Operators. It is not in dispute that ultimately the matter has been decided by Division Bench on 10.2.77 and the claim of respondent No.3 herein, Shri M.C. Shah has been accepted and consequent thereupon, the respondent No.3 has been given deemed date of promotion from 6.2.71. The petitioner made a representation to respondents and prayed for giving him same benefits as he was senior to Shri M.C. Shah. Under the letter dated 19.1.80, the petitioner has been informed that his matter regarding correction of gradation list is pending in the Government. Having no hope of any redressal of his grievance, the petitioner filed this Special Civil Application.

3. This Court has passed order on 4th April 1980 granting interim relief to the effect that promotions to the post of Police Wireless Sub Inspectors will be made after obtaining previous orders from this Court. What happened to the promotions has not been brought on record by either of the parties. However, the learned counsel for the respondents-State, Shri H.L. Jani very fairly conceded that the matter of the petitioner has to be decided by the respondent-State and he has failed to give any justification in the aforesaid action of the respondent-State to sit over representation of the petitioner.

4. Taking into consideration the totality of the facts of this case, interest of justice will be met in case this Special Civil Application is disposed of with directions to respondent No.1, through Secretary, Home Department, to consider the case of the petitioner of giving him deemed date of promotion from 6.2.71, the date from which promotion has been given to Shri M.C. Shah, who is junior to the petitioner. The petitioner has already retired from services on 3rd June 1987 and it is expected of the respondent No.1 to decide this matter within a period of three months from the date of receipt of certified copy of this order. In case the claim of petitioner for giving him deemed date of promotion from 6.2.71, is accepted by respondent No.1, he shall be

entitled for all consequential benefits following
therefrom. Rule is made absolute in aforesaid terms with
no order as to costs.

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(sunil)